UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

E. MARIE GUNKEL,)
)
Plaintiff,)
)
v.) No. 3:05-cv-220
) (Phillips/Guyton)
SECURE ONE, INC., ADT SECURITY)
SERVICES, INC., and ANDERSON,)
CRENSHAW & ASSOCIATES, L.L.C.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the undersigned pursuant to 28 U.S.C. § 636(b), the Rules of

this Court, and by Order [Doc. 42] of the Honorable Thomas W. Phillips, United States District

Judge, for disposition of the defendant ADT Security Services, Inc.'s Motion to Amend Answer

[Doc. 41].

The defendant ADT Security Services, Inc. moves to amend its answer to allege that

the damages claimed by the plaintiff were caused in fact and proximately caused by the acts and/or

omissions of the defendant Secure One, Inc. [Doc. 41]. The plaintiff failed to file a response to the

defendant's motion within the time period required by E.D.TN. LR 7.1(a). "Failure to respond to

a motion may be deemed a waiver of any opposition to the relief sought." E.D.TN. LR 7.2.

Rule 15(a) of the Federal Rules of Civil Procedure provides that leave to amend

pleadings "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a). "In the absence

of any apparent or declared reason – such as undue delay, bad faith or dilatory motive on the part

of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue

prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.– the leave sought should, as the rules require, be 'freely given.'" <u>Foman v. Davis</u>, 371 U.S. 178, 182 (1962).

Upon review of the defendant's motion and the record as a whole, and for good cause shown, the Court finds that the defendant ADT Security Services, Inc.'s Motion to Amend Answer [Doc. 41] is well-taken and is therefore **GRANTED.** The defendant is **DIRECTED** to file its amended answer within ten (10) days of the entry of this Order.

IT IS SO ORDERED.

ENTER:

_____s/ H. Bruce Guyton_____
United States Magistrate Judge